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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,888	06/15/2001	Ake Bergquist	VCC0079-US	3464

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EXAMINER

COURSON, TANIA C

ART UNIT PAPER NUMBER

2859

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/883,888

Applicant(s)

BERGQUIST ET AL.

Examiner

Tania C. Courson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following must be shown or the feature(s) canceled from the claim(s):

- a) “said warning triangle in the fold-up position” as stated in line 5 of claim 1, this remains unexplained by the applicant’s arguments. Neither Figure 1 nor Figure 2 show how the “warning triangle (2)”, doubles-up or bends-up or for that matter folds-up. The references used to reject the claims show the same structure as is shown in the applicant’s Figures;
- b) “one of three legs of said warning triangle” as stated in line 2 of claim 2, this remains unexplained by the applicant’s arguments. Neither Figure 1 nor Figure 2 show how the “warning surface/reflector material” (7), “is situated on one of three legs of said warning triangle”. It is understood that the “warning triangle (2)”, of Figure 2, has **within it**, three triangular shaped and one rectangular shaped “warning surface/reflector material” (7), while the overall shape of “(t)he warning triangle 2 preferably (has) a compact **rectangular** shape” (applicant’s specification, page 3, lines 27-28). So it remains unclear which “one of three legs” corresponds to the overall **rectangular** shape of the “warning triangle (2)”. The references used to reject the claims show the same structure as is shown in the applicant’s Figures.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the following as described in the specification:

- a) “warning triangle in its fold-up position” (page 2, line 14), see 1(a) above;
- b) “three legs” (page 3, line 29), see 1(b) above.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

3. Claim 7 is objected to because of the following informalities: “said warning surface” in line 1 lacks antecedent basis. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term “triangle” in claim 1 is used by the claim to mean “hav(ing) a compact rectangular shape,” while the accepted meaning is “The plane figure formed by connecting three points not in a straight line by straight line segments.”

Claims 2-8 are rejected due to their dependency on claim 1.

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold ('926) in view of Jones (U.S. Patent No. 4,303,305).

Gold discloses a motor vehicle with a rear hatch comprising:

- a) an opening having a boundary edge (Fig. 2);
- b) a hatch (Fig. 2, door 12) for covering said opening, said hatch being arranged so that it can move between a closed position (Fig. 1) and an open position (Fig. 2);
- c) an edge portion (Fig. 2) of said hatch able to secure said fold-up warning triangle in a folded up position (Fig. 2, rear light 32), said edge portion bearing against the boundary edge of the opening in the closed position of said hatch (Fig. 1);
- d) wherein said fold-up warning triangle is visible to other traffic when said hatch is in its open position (Fig. 2);

- e) a recess in said edge portion of said hatch, said fold-up warning triangle being releasably fitted therein (Fig. 2), said recess having a wall interrupted by at least one hole (Fig. 2);
- f) wherein said warning surface is oriented essentially at right angles to a road surface (Fig. 2) used by the vehicle when said hatch is in its opened position (Fig. 2).

Gold does not disclose a reflector material carried by/situated on said fold-up warning triangle, said hole is triangle-shaped, wherein said wall of said recess is interrupted by a three or more holes and wherein two warning triangles are releasably fitted in respective recesses in said edge portion of said hatch.

With respect to a reflector material carried by/situated on said fold-up warning triangle, Jones teaches a reflex reflector device that consists of a reflector material (reflex reflectors 10, 11) carried by/situated on said fold-up warning triangle (column 6, lines 17-20). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the motor vehicle with a rear hatch of Gold, so as to include a reflector material carried by/situated on said fold-up warning triangle as taught by Jones, in order to amplify the warning effects for following traffic.

With respect to claim 4: the shape of the said hole, i.e., triangle-shaped, absent any criticality, are only considered to be obvious modifications of the shape of the hole (Fig. 2) disclosed by Gold as the courts have held that a change in shape or configuration, without any criticality, is within the level of skill in the art as the particular shape claimed by Applicant is

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nothing more than one of numerous shapes that a person having ordinary skill in the art will find obvious to provide using routine experimentation based on its suitability for the intended use of the invention. See *In re Dailey*, 149 USPQ 47 ( CCPA 1976 ).

Regarding claims 5, 6 and 8: Gold discloses a recess in said edge portion of said hatch, said fold-up warning triangle being releasably fitted therein (Fig. 2), said recess having a wall interrupted by at least one hole (Fig. 2). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a recess in said edge portion of said hatch, two fold-up warning triangles being releasably fitted therein, said recess having a wall interrupted by at least three or more holes, since it has been held that the mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

With respect to the definition of “hatch”, the examiner notes the applicant’s definition found in the specification on page 2, lines 12-13, “a hatch such as a trunk or hood”.

#### ***Response to Arguments***

8. Applicant’s argument’s filed July 16, 2002 have been fully considered but they are moot in view of the new ground(s) of rejection.

*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose motor vehicles having reflectors/lights located in edge portions of the body of the vehicle and associated triangular reflectors:

Medeiros. (U.S. Patent No. 6,184,786 B1)

Gold (U.S. Patent No. 5,842,770)

Findley (U.S. Patent No. 5,751,212)

Gold (U.S. Patent No. 5,711,593)

Chou (U.S. Patent No. 4,875,028)

Romanelli (U.S. Patent No. 4,054,789)

Lindner et al. (U.S. Patent No. 3,970,033)

Chamberlain (U.S. Patent No. 3,582,639)

Vermette (U.S. Patent No. 2,918,565)

Weir (GB-2342712 A)

Pretzell (DE-4201818 A1)

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (703) 305-3031. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (703) 308-3875. The fax number for this Organization where this application or proceeding is assigned is (703) 308-7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



DIEGO F.F. GUTIERREZ  
SUPERVISORY PATENT EXAMINER  
GROUP ART UNIT 2859

TCC  
November 18, 2002